

REGULAR MEETING AND PUBLIC HEARING
OF THE FALLS CHURCH PLANNING COMMISSION
SEPTEMBER 8, 2009
Council Chamber

1. CALL TO ORDER: Chair Lawrence called the meeting to order at 7:50 p.m.

2. ROLL CALL:

Members Present: Ms. Hockenberry
Mr. Lawrence
Mr. Meeks
Ms. Rodgers
Ms. Teates
Mr. Wodiska

Member Absent: Mr. Kearney

Administrative Staff Present: Ms. Perry,
Senior Planner

Chair Lawrence informed the commissioners Mr. Kearney had an unexpected emergency and would not be attending this evening's meeting.

3. ADOPTION OF AGENDA:

Ms. Teates made a motion, and Ms. Hockenberry seconded, to adopt the agenda.

Upon voice vote, the motion passed unanimously.

4. PLANNING COMMISSION REPORTS:

Chair Lawrence welcomed Ms. Perry back. Since Ms. Perry had been gone for most of August, Chair Lawrence suggested the commissioners hold their questions until the next meeting when Ms. Cotellessa returns.

Chair Lawrence noted their next meeting was September 21st, which he predicted would be a long night and would start at 6:45 p.m. At 7:30 there would be a ZOAC joint session with City Council. He needed three other commissioners to show up at 6:45 to ensure a quorum and there would be a feeling from tonight's hearing whether it would be controversial or not.

Chair Lawrence would not be able to attend the city tour on Thursday morning but noted Ms. Hockenberry would. Ms. Rodgers and Mr. Wodiska reported they had not received notice of the tour, only Ms. Hockenberry's response.

Chair Lawrence reported he had received information third hand through a City Council member that Falls Church Housing may not come back before them until the spring. They may have financing for the senior unit and they're trying to come back with something comprehensive, still not sure where the third building would fit in.

Ms. Hockenberry wanted to remind everybody about a few events occurring in the City: Taste of Falls Church Saturday, September 12th, from 10 a.m. to 4 p.m., and recycling also set for that morning, 9 a.m. to 1 p.m. Run for the Schools would

56 take place on Sunday, September 13th, and Friday night was a home George Mason High
57 School football game.

58
59 Ms. Teates added taking place with the Taste of Falls Church was the Fall Festival.

60
61 Mr. Wodiska announced this past week he finished his Virginia Planning
62 certification and is now a certified commissioner.

63
64 5. RECEIPT OF PETITIONS: None.

65
66 6. PLANNING DIRECTOR'S REPORT:

67
68 Ms. Perry wanted to remind the commissioners October is National Community Planning
69 month and when Ms. Cotellessa returned, she would talk to the commissioners about
70 activities associated with that.

71
72 Chair Lawrence related on September 21st City Council will pass a resolution
73 recognizing Planning Month.

74
75 Chair Lawrence informed the audience that Ms. Jill Ann Spence, the City arborist,
76 left for Canada.

77
78 7. OLD BUSINESS: None.

79
80 8. NEW BUSINESS:

81
82 A. **Site Plan 20090407, West End Park, 1000 block of West Broad Street (RPC #51-**
83 **216-077 and RPC #51-216-078)**

84
85 Ms. Perry reported the site plan for West End Park was on the agenda this evening
86 and was originally advertised for the Planning Commission's consideration on the
87 actual site plan. Ms. Perry advised the commissioners the application was not
88 ready and staff was requesting additional time. The site plan was being led by
89 Recreation and Parks. They had received several comments from staff and also met
90 with the AAB recently and additional time was needed to incorporate the various
91 comments.

92
93 Ms. Perry advised the commissioners since this was advertised for public hearing,
94 the item must be opened for public comment. The date being requested was different
95 than on the staff report and staff was requesting a date of October 19th.

96
97 The chair opened the item to the public. Hearing no response, the chair closed the
98 item to the public.

99
100 Ms. Rodgers commented that there had been several meetings with the Recreation and
101 Parks Commission and members of the neighborhood and there had been a lot of
102 comments. She was looking forward to seeing the final application.

103
104 Ms. Rodgers moved, and Ms. Hockenberry seconded, to continue the public hearing of
105 Site Plan Application 20090407 to October 19, 2009.

106
107 Upon voice vote, the motion passed unanimously.

108
109 B. **Application 20080767, Special Use Permit for a Bank Drive-Through at 1230 West**
110 **Broad Street (U1488-08)**

111
112 **Recommendation to the Board of Zoning Appeals**
113

114 Ms. Perry made a disclosure that her husband is a vice president for BB & T, and
115 for the reasons stated more fully in her written disclosure which she provided to
116 the Planning Commission and the City Clerk. She stated she could participate
117 fairly, objectively and in the public interest.
118

119 Chair Lawrence asked to attach the full disclosure with the meeting minutes.
120

121 Ms. Perry reported the Special Use Permit was before the Planning Commission for a
122 recommendation to the BZA to allow a drive-through bank. The applicant, BB & T,
123 was proposing a development of a drive-through bank in the Falls Plaza Shopping
124 Center in the 1200 block of West Broad Street. The proposed bank would be
125 constructed at the site currently occupied by a vacant building, formerly Chicken
126 Out.
127

128 The subject property is zoned B-1, Limited Business District. A bank is permitted
129 by right in the B-1 District but a drive-through requires approval of Special Use
130 Permit. One drive-through lane is being requested.
131

132 Staff reviewed the application and found that it generally complies with the
133 criteria provided in the Code for drive-through special use permits. The use is
134 appropriate for a shopping center. the application indicates the architectural
135 style is compatible with the shopping center and surrounding uses.
136

137 Potential adverse impacts on the neighborhood are considered minimal given its
138 location in a commercial district and along Broad Street. The proposed development
139 is consistent with the Comprehensive Plan, by orienting the building to West Broad
140 Street and strengthening pedestrian connections to, through, and within the
141 shopping center site.
142

143 A clear delineation of the drive-through aisles is chiefly through pavement
144 materials, pavement marking and signage, as is the minimizing of conflict between
145 vehicular and pedestrian routes.
146

147 Although landscaping and associated requirements are reviewed and finalized as part
148 of the site plan process, it has been identified that waivers would be required
149 because two of the landscaping islands do not meet the size and dimensional
150 requirements of the Code.
151

152 At this time the extent of the waivers do not appear extensive enough to impair
153 further consideration of the special use permit, noting the waivers will be
154 reviewed and decided at site plan.
155

156 Elements most critical to the special use permit have to do with the location of
157 the ADA parking requirements as part of the parking requirements for this use,
158 traffic circulation, traffic impact, and development conditions.
159

160 In summary, though detailed more in the staff report, there are two parking spaces
161 located within 50 feet of Broad Street. The Code does not prohibit parking spaces
162 in this area but has identified it as a potential traffic impact. Given the length
163 of the drive aisle there, if there are any more than two cars stacking waiting for
164 a vehicle to maneuver in and out of those spots, it could back up on Broad Street.
165 Those two spots will be limited to only those who are eligible to use ADA spaces

166 and they do not think the impact would be as severe as if they were fully available
167 to all drivers.

168
169 While not a requirement and while staff has worked with the applicant to identify
170 other locations, one has not been identified so this has been raised as an impact
171 for the Planning Commission's consideration.

172
173 In terms of traffic circulation, staff worked with a traffic consultant to look at
174 some analysis that was done on turn movements, maneuvering throughout the site as
175 indicated on the layout plan that was received as part of the application.

176
177 The review indicated in summary that while there may be some additional width
178 desirable at some point within the site, that the design meets all requirements.

179
180 In terms of Traffic Impact Analysis, there was a TIA conducted to analyze several
181 intersections in the vicinity of the proposed development. The TIA indicated that
182 the proposed development does not degrade the forecasted level of service beyond
183 acceptable conditions except for one movement in one intersection. Therefore,
184 staff found mitigation of this impact was warranted.

185
186 Staff worked with the applicant to identify a mitigation measure. On the plans it
187 is known as the Route 7 and Gordon Road Plaza Access 4 southbound approach. The
188 resolution was to make that movement right in-right out. When they conducted a
189 review of this mitigation, it resulted in a Level Of Service B which was a marked
190 improvement over the previous submission and it redistributed a number of the trips
191 on that drive aisle to other intersections analyzed.

192
193 When the trips were redistributed, there was no decline in Level of Service on
194 those intersections, so it was thought an appropriate mitigation. Whether it will
195 be achieved through signage or actual physical barrier, something called a pork
196 chop that would force traffic in one direction, that would require additional
197 engineering and research.

198
199 Whether through signage or physical barrier or both,
200 Staff felt mitigation could be achieved. In order to ensure that, staff recommends
201 a development condition that applicant implements a traffic mitigation measure to
202 address traffic impact at Plaza Access Number 4 to the satisfaction of the Director
203 of Engineering and Construction. This gives staff and applicant flexibility in
204 appropriately designing that mitigation measure.

205
206 In terms of other development conditions, Ms. Perry reported in a situation like
207 this, staff looks for an assessment of impacts, how to mitigate them, and other
208 standards that have been applied to drive-throughs in Falls Church. Under the
209 staff recommendation, there are listed several proposed development conditions that
210 are offered to the Planning Commission as recommendations to the BZA, which are on
211 page 4 of the staff report.

212
213 The first two talk about hours of operation and number of staff at the branch.
214 Those are standard that are included as part of development conditions to try and
215 identify the scope and the extent of the use, to make sure the parking is not going
216 to be taxed by the number of employees at that branch.

217
218 Numbers 3, 4 and 5 were derived from an assessment of impacts that were identified
219 but that the applicant has agreed to implement. One is the mitigation measure for
220 the traffic impact at Plaza Access 4. The other has to do with providing new

street cans for refuse and recycling in the streetscape. The next one has to do with implementing low impact design elements.

The sixth staff recommendation comes from the Department of Environmental Services. The City engineer, in assessing the impact of this development, is requesting the developer install downstream of the project a hydrodynamic separator. That is missing from Recommendation Number 6 and a separate memo was provided from the City Engineer detailing his interest and what he assesses as an appropriate mitigation measure.

Based on this review, staff recommends that the Planning Commission recommend that the BZA approve the Special Use Permit with the conditions stated on Pages 4 and 5 of the staff report.

Ms. Perry added that Special Use Permits are traditionally approved for 1 to 2 years with the idea being as a Special Use Permit, impacts are anticipated that may not be completely captured in all the review and analysis that is done when considering these applications. A Special Use Permit has never not been reapproved. What it does it allows us to basically wait a year, watch how the impacts are mitigated, and if there are any concerns, instead of having to deal with those impacts in perpetuity, the application is revisited with the applicant to look for measures to see that the site is operating appropriately. It's one year after the Certificate of Occupancy is issued, so that is one year while the use has been implemented.

Chair Lawrence asked if the applicant wished to make a presentation.

Ms. Jenny Hornback with Walter Phillips, Incorporated, located in the City of Falls Church was the planner of the project and was also acting as applicant's agent. She introduced Dick Prosser with BB & T, Munsur Arabati (phonetic) with BB & T, Mark Henderson with Federal Realty Investment Trust, and Felice Brychta with Gorove/Slade Associates. They were all present to address any comments or questions.

Ms. Hornback related this meeting marked the end of a year and a half of cooperative efforts with the City's planning staff. Several ideas having been vetted through the planning and engineering department to try to come together with a solution that met all concerns, which she felt was reflected in the few development conditions that had come out of this as well as very few, if any, remaining issues.

Ms. Hornback thanked staff for coming together with a really nice project.

Overall, they agree with all of the development conditions, with a little bit of a debate around 6 or 7. Issue Number 7 had been debated on numerous Special Use Permits. She was glad to answer any questions from the commissioners.

Mr. Dick Prosser, vice president of real estate with BB & T, 6400 Arlington Boulevard, Falls Church, Virginia, 22042, wanted to echo Ms. Hornback's comments about staff, noting it was a long, tedious process but they had worked together to come up with a good plan.

His comments included the fact that he came over with the First Virginia merger and had been with First Virginia prior to that.

276 BB&T had operated a branch in Falls Plaza since 1992 along with a couple of other
277 branches in Falls Church, and although not in the City limits, corporate
278 headquarters of First Virginia had been there for many years. He thought they'd
279 been a good corporate citizen and he looked forward to the expansion of services to
280 be offered at Falls Plaza.

281
282 Mr. Prosser related drive-throughs are sometimes in conflict with what a lot of
283 municipalities are trying to create, pedestrian-oriented environments, and he had
284 been involved in those environments in other municipalities. BB&T has operated a
285 branch there since 1992 and they had been somewhat thwarted in the ability to grow
286 because of competition from other branches and drive-throughs. When the
287 opportunity came available with the former Chicken Out, they were excited about the
288 prospect of adding a drive-through service. They looked forward with following the
289 project through with the City of Falls Church and staff. He added that hopefully
290 when revisited in a year, there will be very few issues to mitigate.

291
292 The Chair opened the item to the public. Hearing no response, the Chair closed the
293 item to the public.

294
295 Ms. Teates noted that the Walter Phillips report talked about a minimum of 306
296 spaces were needed and this application proposes 314 and asked if they actually
297 gained or lost any spots.

298
299 Ms. Perry remarked that this was part of a larger site plan for Falls Plaza and
300 when that site plan was approved, there was an agreement between east and west that
301 basically required this side of the site to have a minimum number of parking
302 spaces. That statement confirms that they met the requirement that they're bound
303 by under the previously approved site plan.

304
305 Ms. Hornback confirmed they're gaining two spaces on the west side, going from 312
306 to 314.

307
308 Ms. Teates understood the parking reduction was set at 569 when the site plan was
309 done but anybody who has been in that shopping center knows the parking, especially
310 on the west side is inadequate and it is a crazy shopping center to drive through.
311 It's well under-parked for the usage it has currently.

312
313 Ms. Teates remarked that she saw they were going to allow ADA spaces that had to
314 back in an area that close to Broad Street and was shocked that was actually
315 allowable. She felt it did not seem to be an appropriate location for ADA spots
316 and since this had been worked on for a year, was there no other location that
317 could be found.

318
319 Ms. Perry replied the various iterations or the exercise of trying to locate those
320 spots so they do meet the ADA requirement was probably something the applicant
321 could speak more fully to. They did try to find alternatives but none could be
322 identified. From the staff perspective, one of the reasons it raised concern was
323 in consideration of the Special Use Permit there is currently not a requirement
324 that would require them to move them. Technically under the regulations they can
325 be there. It is not the ideal location.

326
327 Ms. Teates thought it was a major safety issue. It's already a dangerous area and
328 she didn't think the flow in the diagram looked improved, but looked like it was
329 even harder to get to that area.

331 Ms. Hockenberry also was concerned about the flow, particularly on the west end of
332 the project and where it seems to be crossing purposes there. She understood there
333 is the right in and right out but she thought it would be very confusing right
334 where the proposed stamped concrete area was. She thought it was extremely
335 dangerous and saw definite problem areas in the flow of that.

336
337 Ms. Hockenberry inquired if the parking spots were limited to the bank or shared
338 with the rest of the stores in that area.

339
340 Ms. Perry related there are no other than the two ADA spaces and all the other
341 spaces are shared within the parking center.

342
343 Ms. Rodgers' concern was with traffic flow. She knew how congested the area could
344 be and didn't like the idea that there is no left turn from that entire shopping
345 area unless you go down Birch Street and that was very limiting. It cuts off all
346 of Gordon from anybody coming from this area. She thought it was a terribly
347 convoluted traffic pattern and couldn't support it unless it was changed.

348
349 Ms. Rodgers said as far as the one year period for special permit, it read, If
350 these conditions are not met the Special Use Permit shall be revoked. She noted
351 Ms. Perry said one has never been revoked and she would like to see this get fixed
352 before a permit was even thought to be given.

353
354 Mr. Meeks asked Mr. Prosser what the typical BB & T prototype was, as far as the
355 size of the branch and number of drive-throughs.

356
357 Mr. Prosser replied currently they had 3000 square feet in line in the shopping
358 center now. Historically over the years when a new branch is built it's about 4000
359 square feet with three drive-through lanes. The prototype had been just revised to
360 bump it up to about 4200 or 4300 square feet with the same number of drive-
361 throughs. This would not be typical. They probably had a half a dozen of these
362 type branches through their footprint in Northern Virginia with a single drive-
363 through lane, but generally it's a multiple drive-through lane operation.

364
365 Mr. Meeks noted at some point during the day maybe all three drive-through lanes
366 were being used simultaneously which Mr. Prosser agreed with. Mr. Meeks said the
367 staff report said they didn't think there would be a lot of stacking but in doing
368 the math, three drive-throughs being used simultaneously, wouldn't there be more
369 cars backed up into the access point and into the shopping center.

370
371 Mr. Prosser advised that the use of drive-throughs, the use of ATMs compared to ten
372 years ago is down simply because people don't visit the branch as much as they did
373 because they're using debit cards more and direct deposit to get cash. In the last
374 5 or 6 years, if you visited a three bay drive-through you're going to generally
375 have 4 to 5 cars parked in the first lane, 2 to 4 cars parked in the second lane,
376 and maybe 2 to 3 tops parked in the outward lane. Most people prefer to use the
377 inner lane where you've got people to people contact. That is typical of every
378 bank.

379
380 He envisioned not having a drive-through today that on peak times probably the most
381 number of cars parked there at the tops would be five. If the drive-through is
382 crowded, you would bypass the drive-through and go inside. The drive-through is
383 simply to add another delivery method for the older person or person with children
384 that does not want to park and get out of the car.

386 Mr. Meeks further noted there was another drive-through location in the City and
387 asked what the peak times were there.
388
389 Mr. Prosser acknowledged there was a 2 lane drive-through and whatever he would say
390 would be conjecture. Both were remote drive-throughs, camera operated with tube
391 systems. He estimated the peak times would probably be Thursday evenings from 5 to
392 6:30, and Friday, maybe 4:30 to 5 to 7. It's been a while since he visited that
393 branch but he didn't think he ever saw more than four cars at either lane stacked
394 up there.
395
396 Mr. Meeks was interested in knowing how they were not going to fill the stacking
397 lane, whether it's once a day or once a week.
398
399 Ms. Perry said the expectation of how many cars expected to stack if somebody was
400 waiting to enter into the two ADA parking spaces, stacking for the drive-through
401 met the minimum requirement of five spaces. Mr. Meeks said he understood it's the
402 minimum requirement but he knows they'll exceed it once a day.
403
404 Ms. Perry had not done analysis to determine how often that would exceed the five
405 spaces. Mr. Meeks also didn't understand why there was no analysis on that
406 relative to the access off Route 7 where the gas station was and Gordon Road. It
407 seemed to him the stacking lane went right into what was the busiest entrance into
408 the shopping center, which was also where the handicapped spaces were.
409
410 Ms. Felice Brychta with Gorove/Slade and Associates, informed the commissioners a
411 Traffic Impact Analysis was done for this site and there was a higher number of
412 trips at the Birch Street intersection which goes back behind the shopping center.
413 They looked at the actual intersections, the intersections along Broad Street, the
414 intersection just to the west which was the intersection they were talking about,
415 and also the Birch Street intersection.
416
417 Birch Street was looked at in terms of delays in Levels of Service. With the right
418 in-right out intersection at Access 4, it met all acceptable Levels of Service
419 except one location which had a delay of 59.5 seconds at Birch Street. At Birch
420 and Route 7, the current daily trips are 99 outbound trips during the a.m, there
421 are about 200 outbound trips during the p.m., and about 225 on Saturdays outbound
422 at Birch. When Mr. Meeks asked if there was a traffic count further up Birch, Ms.
423 Brychta said they just looked at the intersection of Birch and Broad.
424
425 Ms. Brychta provided exiting numbers on Route 7 at Plaza Access 4 and then also the
426 drive-way just furthest to the west called Access 3.
427
428 Mr. Meeks said the numbers didn't seem right to him.
429
430 Ms. Brychta also related they looked at intersections along Haycock, most of the
431 inbound and outbound trips are at these intersections because that's where the bank
432 is located on the site. They based their numbers using trip generation rates from
433 the Institute of Transportation Engineers.
434
435 Mr. Meeks was trying to understand the current rate of traffic more than the
436 impact, and he thought 225 seemed low, particularly if there was a 59 second delay.
437
438 Ms. Brychta explained that is a signalized intersection and that was the reason the
439 delay was so low. Typically at unsignalized intersections the delay would be high.
440

Mr. Meeks said maybe he had particularly bad luck because he had sat at that light more than once and anyone else who is a resident or shopped at that Giant has sat through that light more than one time.

Ms. Brychta explained 59.5 seconds is the average delay for a Saturday. For that same movement for a.m. and p.m. it was about 52.3 seconds for the a.m. peak hour and about 54.7 seconds, roughly the same for all peak hours that were studied at Birch Street.

Mr. Meeks did not understand the idea of giving a Special Use Permit that can be revoked but never has been revoked, particularly in a case where there were traffic mitigation problems from the outset. If there were intersection troubles at Gordon Road or with the gas station, would the drive-through permit be revoked?

Ms. Perry said the issue of being able to revoke at any time had to do with non-compliance with the development conditions specified. So if there is any violation, for example, if the street cans were not put in or if they exceeded the number of employees without having the Special Use Permit approved, that would be grounds for revoking it. Just because a site may not be functioning as the analysis indicated it would, would not be a reason to revoke the Special Use Permit.

The idea of giving the one year time period was to allow the business to establish itself and to experience that development. If the mitigations weren't working out as expected or if there was another impact, they could look at ways of mitigating that as part of the renewal process.

Chair Lawrence said the bottom line was if they find traffic was backing up horribly, if they implement and maintain it the way it's supposed to be, the fact that it creates a traffic problem is not a justification for revoking the Special Use Permit.

Ms. Perry agreed with that assessment and said that was why staff recommends typically having that one year observation period so they're not stuck with that impact in perpetuity. After one year, they get to re-evaluate impacts going on in that area.

Chair Lawrence asked if the traffic was not working, what would be done.

Ms. Perry explained in a by-right scenario there would be nothing to do. The opportunity here through the Special Use Permit process was to limit the use to one year so that the Special Use permit could be revisited. It's not to say it would have to be renewed. The Planning Commission or the BZA could choose not to renew the Special Use Permit when it comes back around.

Chair Lawrence noted it would come to the Planning Commission for another recommendation but it's not their decision. This was a recommendation to the BZA.

Ms. Perry related the issue with the one year is controversial because an applicant doesn't want to hear he may not get the Special Use Permit after making an initial investment after one year. That is a concern that has been expressed in other Special Use Permit processes. In the City's history working with applicants, it's never reached a point where there wasn't a way to make it work and make the renewal successful but it was not a guarantee. If the site does not function as anticipated, staff wouldn't be recommending if they didn't think the impact was

496 reasonable, from a staff perspective though.
497
498 Ms. Hockenberry said that she didn't see the sense in building a permanent
499 structure there, with changes to the traffic flow, only to say one year from now
500 we're going to maybe say no.
501
502 Ms. Perry was not anticipating a problem in a year from now but was giving an
503 example where they might want to revisit the development conditions. There were
504 some concerns on the site flow. One of the analysis provided by the applicant was
505 something called Auto Turn Analysis where they model out two types of vehicles, a
506 passenger vehicle and a truck vehicle. They use conservative estimates on the size
507 of the vehicles so the size of the vehicles that they use were larger than an
508 average vehicle. It shows the car moving through the site in different movements
509 and there were seven different movements evaluated. Out of the 7 movements, it
510 showed 5 were acceptable, 2 were not desirable but could be solved by limiting the
511 movement with some signage.
512
513 Ms. Perry noted while looking at the layout it may look like the site moves tight.
514 Based on the Auto Turn Analysis that staff reviewed and in consultation with the
515 traffic consultant, it was appropriate and it met the design requirements. So that
516 all figured into part of the review process.
517
518 Mr. Meeks was less concerned with that than just the volume of traffic and people.
519 He also found it interesting there wasn't more traffic mitigation that came out of
520 the staff report and he thought if there was more traffic mitigation built into the
521 Special Use, this would be a little bit easier to go through.
522
523 Ms. Perry replied that one of the reasons they
524 had a recommendation for that area in terms of traffic mitigation, is they looked
525 at the ten intersection movements that were evaluated in the TIA. They looked at
526 existing conditions, looked at future conditions, with a build out year of 2010
527 without the development, and then if the development was constructed. It was only
528 at that Route 7 and Gordon Route Plaza Access 4 southbound approach where there was
529 a degrade in Level of Service with the proposed development.
530
531 She confirmed it was true there was degrading Level of Service predicted for 2010
532 without the development, and it was true there is an existing traffic crunch there
533 and there is predicted to be one whether or not this goes in or not. They looked
534 at what is the impact of this proposed development and also the fact a bank could
535 go in there by right without demonstrating its impact on traffic, and looking at
536 what does a drive-through bring that a non drive-through bank wouldn't bring in
537 terms of traffic.
538
539 Those were some of the elements looked at in trying to figure out what was
540 appropriate to mitigate and request the applicant to mitigate based on the
541 application. It's that one approach that proved to be the area with the proposed
542 development there was actually a change in Level of Service and the other ones did
543 not show that.
544
545 Ms. Perry had a chart she made to help her track the changes in Level of Service
546 across the intersections that show the existing conditions. If it changed without
547 development, she noted that and if it changed with the proposed development in
548 2010, she noted that and highlighted the area. Ms. Perry distributed copies of the
549 chart to the commissioners.
550

MINUTES OF THE 8 SEPTEMBER 2009 MEETING OF THE PLANNING COMMISSION
UNAPPROVED DRAFT

551 Ms. Hornback explained on the right turn, right in-right out only, currently that
552 intersection may be de facto functioning as a full access movement. There actually
553 is a solid double yellow line right there that does indicate you're not to make
554 left turns out of that access point going eastbound on Route 7 from that access
555 point.
556
557 Currently it is a right in-right out only. When you do make that left turn
558 movement, the numbers on Saturday peaks, there is actually only 9 people that they
559 counted that attempted that left turn movement currently under the existing
560 conditions. Because you are crossing two westbound lanes, you're crossing the left
561 turn lane to make a left turn onto Gordon, then crossing two eastbound lanes, and
562 that is also where the weave is if you're to be in the left turn lane into Birch.
563 It is a left turn movement that probably shouldn't be going on today. At some
564 point there were bollards which were removed. Striping was done to limit so people
565 aren't making left turns into that access. That left turn lane has been eliminated
566 with striping and there are solid double yellow lanes. That was why they felt that
567 wasn't going to be a major change because currently that shouldn't be functioning
568 as a right in-right out intersection.
569
570 Ms. Brychta concurred that the a.m. showed 2 people making that movement, p.m. were
571 4, and 9 people on Saturday, which were very low volumes.
572
573 Ms. Brychta informed the commissioners in response to various questions that the
574 counts were done in 2007. The analysis and traffic study trip generation provided
575 very conservative estimates of traffic. They looked at it again based on another
576 calculation that you can do based on a drive-through bank use. The numbers used in
577 the traffic study are considered to be conservative numbers so this is presenting a
578 worse case. Even with the worst case, it still doesn't degrade the Level of
579 Service.
580
581 Ms. Hornback submitted she found it interesting that when they took those 9
582 leftbound turns out of it and routed those through the other intersections, exits
583 from the site because there are so many exits from the site, it didn't degrade
584 Levels of Service to any of those.
585
586 As to the 547 patrons, Ms. Hornback noted BB & T doesn't track patrons, it tracks
587 transactions. They estimated 2 and a half transactions per person. That is a
588 general estimate. The patrons number in the staff report is probably high. One
589 thing that was found because there are so many exits from the site, it is diluted.
590 You're not talking about 547 patrons trying to make a left turn onto Broad Street
591 right out of that intersection. They're going to go over to Birch or Haycock or
592 out the back behind the loading and make a right onto Haycock, because there are so
593 many access points into that site. That would also be throughout the entire day.
594
595 Chair Lawrence noted for people who go through the drive-through, they would be
596 forced to go into the parking lot where it says, proposed, do not enter sign.
597 There is a bump out so they can't do a left and get onto Broad Street again. They
598 get pushed back through.
599 Chair Lawrence said his main concern was it seemed like a tight squeeze, especially
600 around the ADA spots.
601
602 In response to Chair Lawrence's inquiry of the placement of the ATM, Ms. Hornback
603 replied there would only be a walkup ATM. Its location hasn't been resolved yet
604 but it would probably be on the front facade on the Broad Street front. It would
605 be exterior, 24 hour access, and it would not be a drive up ATM.

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606
607 Mr. Wodiska asked for clarification on Level of Service, how that was defined, and
608 how the measurements are determined.
609
610 Ms. Brychta explained there is a letter grade for each Level of Service, A through
611 F. It's based on the seconds of delay you experience at the intersection. The
612 numbers change slightly for signalized intersections versus unsignalized
613 intersections. For signalized intersections Level of Service E would be considered
614 55.1 to 80 seconds of delay.
615
616 Mr. Wodiska expressed concern with Access 3 and 4, what the letter grades currently
617 are and what they think they'll be.
618
619 Ms. Perry drew attention to the chart she provided and said EC stood for existing
620 conditions. For Number 3 or 13, Haycock Road at Route 7 eastbound through, the
621 Level of Service was D. In the 2010 projected traffic conditions without the
622 proposed development being implemented, they were already forecasting Level of
623 Service D. There were no changes shown for the p.m. peak or the Saturday peak.
624
625 For Number 4 or 14, there were no changes across the Level of Service for the a.m.
626 but with existing conditions, Level of Service D changes and degrades to an E in
627 2010 without the proposed development. It does not further degrade if the
628 development is constructed.
629
630 Mr. Meeks said that didn't make any sense.
631
632 Ms. Perry related she had pulled data from a traffic study conducted by the
633 applicant's consultant, reviewed by the City's traffic consultant, and it's a valid
634 study of projected and existing traffic conditions.
635
636 Ms. Teates said even if the development made a difference, it might not be enough
637 to change it a whole letter grade. She assumed as they go up the alphabet, things
638 get much worse. She noted every single one, with or without development, showed a
639 letter change or two letter changes. In general, all of this traffic is going to
640 get worse at some level.
641
642 Ms. Perry told the commissioners she had asked those questions herself and of
643 traffic engineers she had worked with. The TIA is verified by a consultant as
644 having appropriate data for planners to use and report out. She has to rely on the
645 analysis of the consultants to say this is a valid study and meets all the
646 standards for traffic impact analysis. She pulls the data.
647
648 A former traffic consultant explained to Ms. Perry that typically one change in
649 Level of Service is not always felt. You tend to feel it after two changes in
650 Level of Service. While she didn't know if every traffic engineer would agree to
651 that, but that was a guide provided to her at one time in looking at an assessment
652 like this.
653
654 Ms. Teates wondered if anyone ever goes back and tests the traffic studies. For
655 example, one was in 2005 and if anyone went back in 2009 and checked if it was
656 accurate.
657
658 Ms. Hornback wished to clear up Mr. Meeks' concern that future modeling does assume
659 there is a use in the pad building there now under the existing conditions because
660 a by-right use can go in there.

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661
662 In response to further comments and questions by the commissioners, Ms. Perry
663 explained the chart she created only noted where there was a change and if there
664 was no change it wasn't noted. The point of the chart was using it to show the
665 impacts of this specific use and where it got worse.
666

667 Ms. Hockenberry asked Mark Henderson, development manager of Federal Realty, 1626
668 Jefferson Street, Rockville, Maryland, what he thought of the proposed bank drive-
669 through and if he anticipated difficulties within the shopping center.
670

671 Mr. Henderson said they would normally look at a project exactly the way Walter
672 Phillips had done by looking at traffic studies. BB&T has been in the shopping
673 center and he thought it was an asset to them as well as to them. He felt the
674 drive-through would provide a service to the community and he trusted that Walter
675 Phillips had looked at the uses and did the best they could to look at circulation.
676 He had read through the report as well as staff recommendations and his
677 understanding is they've gone through iterations for a year and a half which is a
678 considerable amount of time for this specific property and he relied on what they
679 found.
680

681 Ms. Hockenberry commended Federal Realty for the high grade of businesses they
682 brought to the shopping center. She asked if somebody is parked over on the
683 Staples/CVS parking lot, could they walk across the street to the other businesses
684 and stores without being towed.
685

686 Mr. Henderson, being the development manager with his focus on real estate, said he
687 had spoken to the property manager and he understood there is an issue on towing.
688 From speaking with her he understood there is a committee meeting on this and the
689 property manager was participating in it.
690

691 Ms. Hockenberry stated if someone wants to go to and from either section, there was
692 a big fear you would be towed. She thought it was something Federal Realty had to
693 start dealing with along with other management people.
694

695 Mr. Henderson appreciated being a part of the community and while this wasn't a new
696 issue, he didn't know the specifics of the details but the property manager did and
697 she was trying to get into this committee that had been formed with multiple
698 property managers.
699

700 Ms. Hockenberry suggested having a parking summit with all of the property managers
701 and banks to get Falls Church to be a much more friendlier place with parking and
702 she encouraged Federal Realty to become a leader and approach other people such as
703 the Broaddale parking group.
704

705 Mr. Wodiska asked for an explanation how the bump out was not anticipated to affect
706 the flow of someone existing the parking lot, because it looked to him you would
707 make the turn and swing into the traffic flowing south.
708

709 Ms. Perry's understanding was there was no left turn; after you conduct your
710 transaction, there is a stop sign there and a proposed "Do not enter" sign so you
711 cannot make that left out.
712

713 Mr. Wodiska asked why traffic would want to move in that flow. Ms. Perry related
714 the Auto Turn Analysis said if you did not restrict that movement it would cause an
715 issue for a vehicle. It was one of the two intersections where they recommended

716 putting a sign to limit that movement.
717
718 Mr. Wodiska said the result would be stacking them by the ADA spaces.
719
720 Chair Lawrence asked Mr. Prosser if he wanted the Planning Commission to take a
721 vote or to wait until the first meeting in October and talk to staff and address
722 their concerns.
723
724 Mr. Prosser said they had worked with staff through the issues and their goal was
725 not to build something that wouldn't work. He didn't deny it was not a tight site
726 but he thought the issues had been addressed and resolved to BB&Ts and staff's
727 satisfaction and he welcomed the vote.
728
729 Mr. Wodiska said he was pleased to see development occurring at this spot. The
730 fact that the Chicken Out had been closed for numerous years had been a sore spot
731 in what was otherwise a very thriving mall. He was very concerned with the traffic
732 flow as it related to Route 7 and the ADA spaces. He believed it would have
733 negative impacts contrary to what the data was suggesting, which he noted was out
734 of character for him as he was a firm believer in data. He had a hard time
735 comparing his own experience for the specific access points.
736
737 **MOTION:** Mr. Wodiska moved, and Ms. Hockenberry
738 seconded, that the Planning Commission
739 recommend that the Board of Zoning Appeals
740 deny the Special Use Permit application
741 U1490-09 for the BB&T drive-through bank
742 for the following reasons:
743 Concern over traffic flow as it relates to
744 the ADA space location and Route 7
745 congestion.
746
747 **DISCUSSION:**
748
749 Ms. Teates' issues were the ADA spaces. Having seen Entrance Number 4 back up
750 without a drive-through turn there, she felt it would continue to be a problem,
751 especially if people coming through the drive-through wrapped around, it would be
752 difficult to have a clear sight line to get cars in and out of there and would
753 cause congestion.
754
755 She was also concerned that the drive-through allowed for extra turns that would be
756 happening. When the Chicken Out was there, it did generate some traffic. There
757 were people pulling in and out of the parking spots but there wasn't another
758 traffic flow going on. Her primary issue was the ADA spots.
759
760 Chair Lawrence reminded the commissioners that since this was a motion to deny, a
761 "yes" vote meant a vote to deny.
762
763 Upon roll call vote the motion to deny passed unanimously.
764
765
766 **C. Application 20090491, Variance, Colonial Garden Townhouse Development, to**
767 **Permit a Deck in the Rear Yard of 315 North Maple Avenue.**
768
769 **Recommendation to the Board of Zoning Appeals.**
770

771 Ms. Perry informed the commissioners earlier today the Zoning Administrator located
772 a variance previously approved for the subject property which changes the details
773 of the application as presented in the staff report and the staff recommendation.
774

775 Ms. Perry noted after consultation with the City attorney, it's been confirmed that
776 the planning commissioners may still consider the application as presented.
777

778 The variance application is before the Planning Commission as a recommendation for
779 the Board of Zoning Appeals. The subject property, 315 North Maple Avenue, is
780 zoned R-TH, Town House Residential District, and is located in the Columbia Gardens
781 Development.
782

783 Applicant/owner of the subject property is requesting BZA approval of a variance to
784 Section 38-28(b)(5) of the Code which allows a deck to project no greater than 6
785 feet into the minimum of a required yard. The minimum required yard for a property
786 in the R-TH District is 40 feet and the subject property does not contain that 40
787 foot requirement.
788

789 Ms. Perry reported the variance that the Zoning Administrator located today was
790 approved on October 6, 1965, which allowed the rear yard to be 35 feet. Therefore,
791 because that yard was approved to be less than the minimum requirement, there is a
792 by-right option for a 6 foot deck per the Code requirements, although a site plan
793 amendment would still be required.
794

795 When the staff report was written, the recommendation was that the variance be
796 approved with a condition that the deck project no greater than six feet from the
797 house because that would be consistent with the Code requirement that permits
798 decks. Since there is already a by-right option for that 6 feet, staff was
799 recommending that the Planning Commission recommend that the variance application
800 be denied since there is currently that by-right option for that six foot deck that
801 staff was originally supporting.
802

803 Ms. Perry further clarified that staff is recommending denial of the variance. The
804 variance was at the time the staff report was written necessary for any deck to be
805 constructed because it didn't meet the minimum required rear yard of 40 feet.
806 Whether it's one foot or 11 feet, they needed a variance. Based on that hardship,
807 staff thought a 6 foot deck would at least be consistent with the Code
808 requirements. Since they can do that by-right now, a variance is not needed to
809 accomplish that same structure. The request is for 11 feet.
810

811 Mr. Frank Villamar, the applicant/property owner at 315 North Maple for the past 6
812 years and a resident and owner in the City of Falls Church for 9 years, thought he
813 understood what Ms. Perry said was that he could build a 6 foot deck. He stated
814 the 6 foot deck was sufficient for him but his concern was that 6 feet didn't allow
815 him to put a table on the deck. He submitted one of the reasons for this deck
816 addition was to add enjoyment to his property. His kitchen is at the second level
817 and he wanted to extend dining out to the deck.
818

819 His other argument for the deck was he wanted to create an additional fire exit
820 because a lady died on his property in 1998. He understood he had a by-right of 6
821 feet and could live with the 6 foot if he had to but he wanted to do 11 feet or a
822 little bigger to accommodate a table so he and his family could sit out there.
823

824 Currently his property was looking at a row of townhouses at Garden Court where the
825 decks were projecting much greater than ten feet. He felt that the addition of a

826 deck would add value to his property and to the community.
827
828 The Chair opened the item up to the public.
829
830 Lynn McDermott, 311 North Maple Avenue, two doors down from Mr. Villamar, was
831 present because she opposed the request for a variance. She understood that there
832 is now a by-right of a 6 foot deck which she hadn't come prepared to address.
833
834 She also wanted to correct a statement in applicant's request for a variance
835 wherein he referred to her experience of purchasing a refrigerator and it was
836 stated it cost \$1000 to bring it through the window. She wanted to correct that
837 and said the cost for moving the refrigerator as well as two other items totaled
838 \$650.
839
840 She informed the commissioners she chose to live in a townhouse that did not have a
841 deck or balcony and that was done intentionally. The application has been
842 accompanied by four letters supporting it and while she certainly respected the
843 right of people to express their views in support of this application, she wanted
844 to draw attention to the fact that those individuals did not live in this row of
845 townhouses.
846
847 She stated any change in circumstances would be detrimental to her and her privacy.
848 In her view there was no hardship here and she asked the commissioners to oppose
849 the request for a variance.
850
851 The Chair closed the item to the public.
852
853 Chair Lawrence called for comments or questions from the commissioners.
854
855 Ms. Teates said Ms. Cotellessa had previously spoken about other decks that had
856 gotten individual variances over time. She asked if those different variances had
857 different allowable widths and was that basically how some were more than ten feet.
858
859 Ms. Perry said there were a couple of issues. First, she apologized to the
860 applicant. She had not realized applicant had not been contacted by Zoning about
861 finding the variance but it was literally 4 o'clock this afternoon that the
862 variance approval was finalized.
863
864 There were a couple situations going on with the site plan. One is that there
865 wasn't a uniform yard width for the rear yard and there were several lots deficient
866 in the 40 foot yard and did receive variances to bring their yard into compliance
867 like the subject property. There were people that have more than the 40 feet. So
868 the extension to the yard is only the minimum required yard. So if there is a 40
869 foot yard and the bare minimum, you can do is 6 feet. If you have a 49 foot yard,
870 you can do 9 plus 6.
871
872 Ms. Perry thought that was one of the factors why there are some townhomes with
873 larger decks than others. She could not guarantee that was how every single person
874 got their deck. Not everyone realizes that a site plan amendment would be required
875 for a deck. It was quite possible some were built without approvals. She didn't
876 know that for a fact but knew in development that could happen.
877
878 Ms. Teates said in this case the back yard is 37 feet, and if their back yard was
879 larger, they could have a larger deck. It was really a ratio to what the yard
880 looked like.

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Mr. Wodiska said he lives in a townhouse himself and was limited to a 6 foot deck. It was also a second story with a second story kitchen and so he knew exactly what was being talked about here.

Mr. Wodiska inquired if the 6 foot was limited to how far out the staircase could go as well, otherwise practically speaking it's a fire pole, not a staircase.

Ms. Perry said she needed to look at the Code related to uncovered steps and stairs. Mr. Wodiska said the picture showed a staircase on an 11 foot deck which made sense but on a 6 foot deck he wanted to know what the variance limits were.

Chair Lawrence said on a 6 foot it becomes a landing or a stoop where you come up and that's really where you stand to come in as opposed to being a functioning deck.

Ms. Perry, looking at the Code, said it speaks to a minimum yard. The greatest extension that could possibly be had was 6 feet. While it did reference uncovered stairs or fire escapes, that extension is only 4 feet 6 inches. So the extension of the deck at 6 feet, and this was Ms. Perry's reading of the Code, may require an interpretation as to how it had been applied in the past. The largest extension that that portion of the Code permits is 6 feet total. If it were just stairs coming out of the second floor and it was not a deck but uncovered stairs, it would only be allowed to encroach 4 feet 6 inches.

One of the challenges here was the Code at its age and when it was created did not have very clear provisions about what is now conventional deck construction. The challenge with the language currently is it's been the Zoning Administrator who has used what we have to apply a modern approach to home construction. Everybody wants a deck, especially in townhomes. That's why she caveated her read of it to say not that there hasn't been a different way the regulation has been applied with decks and a separate of stairs, but that was her read of it.

Chair Lawrence inquired how wide it could be. Ms. Perry said it would depend on whether it was an interior or exterior unit. Based on her reading right then of the provisions, she did not see where it said it needed to be set back from the lot line but it could go to the side. She further stated this was an interior townhome.

Chair Lawrence said in theory it might be able to go to the corner of the other houses.

Mr. Meeks noted the staff report said there is the variance of 6 feet and asked was there any particular reason it was 6 feet.

Ms. Perry explained the reason why staff was supporting a deck of 6 feet was that was consistent with any other property that met the Code requirement could build. At the time when they looked at this application it was unknown why there was a lot that wasn't meeting the minimum yard requirements and it was thought it was a situation that it was built in error and never brought in compliance with the variance. It's not as if the applicant imposes hardship on him or herself. And looking at the criteria for a variance, it's not something that would be expected to see prevalent throughout the R-TH District. So a 6 foot deck seemed reasonable because others that meet the minimum requirements could meet that and that is why staff supported 6 feet.

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936
937 Mr. Villamar asked what his allowance was. initially he requested the information
938 on how he could build the deck and was told he could build a deck that was 20
939 percent of his patio space which allowed the dimensions of 11 by 17. He brought it
940 to the site amendment plan and he was told he couldn't build any deck. Now he's
941 finding out it is a by-right 6 feet. He requested concrete information. He had
942 spent resources for this application and wanted to know what he could build.
943
944 Mr. Meeks asked the applicant how he felt about the 6 feet. Mr. Villamar asked if
945 he could do a small staircase because there were other staircases on that row of
946 townhouses that he mentioned.
947
948 Chair Lawrence asked if they needed to specifically address the staircase. Mr.
949 Meeks said as she read it, he would say it does not because you would have to say 6
950 feet plus the staircase.
951
952 There was general discussion among the commissioners on the staircase and if it was
953 possible to fit one there.
954
955 Ms. Teates said it was clear to her based on what the Zoning Administrator found
956 today was there is this 1965 variance that allowed them to have a 35 foot back
957 yard. which meant he gets the 6 feet. Applicant doesn't have an extended yard
958 like some of these other homes that would allow for a larger deck and there is no
959 clear opinion on the staircase because Ms. Perry was reading from the Code ad hoc
960 as they proceeded. She wasn't sure they could make any definitive statements about
961 a staircase without the Zoning Administrator making his own interpretation. She
962 felt all they could do today was they could follow through on Ms. Perry's
963 recommendation to deny it because the standard variance allows a 6 foot deck and
964 that's adequate, or they could allow 11 feet, but she didn't think a call could be
965 made on the staircase without the Zoning Administrator giving his opinion.
966
967 Mr. Meeks agreed with Ms. Teates but he thought for clarity and to save the
968 applicant further time dealing with the City, they should clarify what they would
969 approve, not counting the staircase. So you get a 6 foot deck, won't count the
970 staircase, but applicant still would have to go to the BZA and the Planning
971 Commission would still have to approve the site plan.
972
973 Ms. Rodgers didn't think that was helpful. She thought they should just go with
974 the original request of giving a variance of 11 feet and then they deal with the
975 Zoning Appeals and getting their permits as to how to handle the staircase.
976
977 Ms. Hockenberry said this was more like a balcony. She asked if the property was
978 40 feet, could they have more than 6 feet?
979
980 Ms. Perry said 6 feet would be the maximum. If they had 41 feet, they could have
981 the one foot and a 6 foot extension into the minimum required for a 7 foot deck.
982 Any yard greater than 40 feet, 40 feet is the minimum yard but it is heavily
983 regulated. Outside of that 40 feet, it's not as heavily regulated.
984
985 Ms. Hockenberry asked if Ms. Rodgers was suggesting they approve a variance for the
986 11 feet. Ms. Rodgers said the request was for a variance of 11 feet and staff has
987 recommended denial because they feel they already have enough by right. She said
988 what they should do is address the original variance request and vote it up or
989 down.
990

991 Ms. Hockenberry realized that whole area was very complicated since it was the
992 City's first townhouse development and there were things that have changed along
993 the way.
994
995 Chair Lawrence said to put it in perspective, he didn't know the providence of some
996 of the decks there. They may have been built with permission or built long ago
997 without permission. He would feel rather hypocritical to punish some who's
998 actually going through the process properly and say, well, as a matter of fact
999 since you asked the answer is no, but other people who didn't ask got to do it.
1000
1001 Ms. Teates personally had a problem with that since they don't know if things were
1002 done correctly or not correctly. She thought in the best possible world they
1003 shouldn't give out variances unless it's a real hardship. The Zoning Code is not
1004 adequate because it's being rewritten but it is the Zoning Code they had that is
1005 legally on record. She felt it should be denied because the 1965 variance allows
1006 for a 6 foot deck which would be adequate and the applicant said it's adequate.
1007 It's not what he wants but he could work with it. If the commissioners did a
1008 motion that approved 11 feet, she felt she probably should not be the person to
1009 make the motion. She didn't believe giving out variances because maybe someone
1010 else got away with it.
1011
1012 Ms. Rodgers said all they were doing was making a recommendation to the BZA. Ms.
1013 Teates reiterated that she didn't feel comfortable recommending a variance just
1014 because other people may have gotten away with it in the past; they didn't know if
1015 they followed the Code or not. Ms. Rodgers said that wouldn't be her reason for
1016 recommending the variance.
1017
1018 MOTION: Ms. Rodgers moved, and Ms. Hockenberry
1019 seconded, that the Planning Commission
1020 recommend that the Board of Zoning Appeals
1021 approve Variance Application V1493-09 for
1022 315 North Maple Street.
1023
1024 Ms. Rodgers inquired if she needed to include dimensions but Ms. Perry said the
1025 application sets forth dimensions and if they're going to recommend approval as a
1026 whole, that would be sufficient.
1027
1028 Discussion:
1029
1030 Mr. Wodiska agreed with Ms. Teates that the Code was in place. He was sympathetic
1031 as possibly could be based on his own experience and that the Zoning Code was not
1032 correctly written here. But it was the Code and exceptions to the variances are
1033 not given out without hardship. He agreed with Ms. Teates on this as the motion
1034 comes before them but not because he didn't think it's reasonable. Mr. Wodiska
1035 noted the work the applicant put into this application was really tremendous and it
1036 was the right way to approach putting on this kind of a addition. He would like to
1037 see this addressed in the zoning rewrite.
1038
1039 Ms. Teates wanted to reiterate she agreed with Mr. Wodiska and hoped the issue is
1040 dealt with in the Code and becomes clarified and modernized to the type of
1041 development right now. She appreciated all the work done on the application and
1042 agreed it was not fair to go to the City several times and hear different answers.
1043 But as with a lot of things, there are a lot of variances over a lot of years and
1044 it's a difficult Code to deal with. With the rewrite, she hoped it would bring
1045 about a better experience for all citizens.

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1046
1047 Chair Lawrence said as far as the zoning rewrite, hopefully it would be fixed
1048 within the next year. He was torn because a 6 foot deck was too small, especially
1049 with a staircase. But as with other variances, how you get one really was due to a
1050 hardship. What he would say to the BZA is he'll approve and go with the 6 foot but
1051 didn't think there should be a staircase because then it was a staircase and not a
1052 deck, or a fire escape to a certain extent.
1053
1054 Chair Lawrence clarified that the variance application is for an 11 foot deck; if
1055 they approve the variance application, it's an 11 foot deck. A "yes" vote is for
1056 an 11 foot deck and "no" vote is for 6 foot. He had a right to do a 6 foot deck
1057 whatever the vote was.
1058
1059 Upon role call vote, the motion failed. (Ms. Hockenberry, Mr. Meeks, and Ms.
1060 Rodgers voted "yes"; Chair Lawrence, Ms. Teates and Mr. Wodiska voted "no.")
1061
1062 Chair Lawrence explained to the applicant a split vote meant the motion was
1063 denied. So in effect the motion for the Planning Commission to recommend 11 feet
1064 was defeated but regardless of that, the applicant still had the right to build a 6
1065 foot deck. The Planning Commission was making a recommendation. The Board of
1066 Zoning Appeals will meet on September 17th and they would make the decision. Not
1067 about the 6 foot deck because they can't change the fact that applicant had the
1068 right to build a 6 foot deck, but it was going to the BZA to try to get an 11 foot
1069 deck.
1070
1071 Chair Lawrence inquired of Ms. Perry if regardless of what the BZA did, if it would
1072 come back to the Planning Commission on the 21st; that is, if he had the right for
1073 the 6 foot, would it need to come back. Ms. Perry's understanding was it would be
1074 able to be done administratively by Ms. Cotellessa, but she has the right to bring
1075 it before the Planning Commission. Chair Lawrence asked if it was 11 foot would it
1076 come back to the Planning Commission; Ms. Perry believed it would. Either way it
1077 has to be documented as a site plan amendment because it's not a feature currently
1078 shown.
1079 It's possible it could be done administratively since it's not associated with any
1080 previous request or permission.
1081
1082 **D. Application 20090474, Subdivision, 400 Block of Park Avenue, (RPC #51-114-**
1083 **0009), to Reconfigure two lots (7 & 8) into two lots (7A & 8 A)**
1084 **Preliminary and Final Approval**
1085
1086 Ms. Perry reported on the application to subdivide the 400 block of Park Avenue.
1087 Ms. Perry reported that proposed subdivision would resubdivide two existing
1088 undeveloped lots into two new reconfigured lots. Proposed lot 7 A would be 7,516
1089 square feet, and lot 8 A would be 7,650 square feet.
1090
1091 The subject properties are zoned T-1 which allows a range of uses from lower
1092 density one family dwellings to commercial buildings such as professional offices.
1093 The proposed new lots would have one lot fronting on Park Avenue, proposed lot 7 A,
1094 and the other lot would be at the corner of Park Avenue and North Virginia Avenue,
1095 proposed lot 7 A, which would have the opportunity upon development to face either
1096 North Virginia Avenue or Park Avenue.
1097
1098 Staff reviewed the proposed plat and the City engineer had comments that could be
1099 completed by the applicant and then approved by staff administratively. After
1100 staff was able to approve those changes, they would bring the plats to the Planning

1101 Commission Chair for signature to finalize the action.
1102
1103 Staff recommends approval of the Subdivision Application 20090474, contingent upon
1104 administrative staff approval of the final plat.
1105
1106 Chair Lawrence called for comments or questions.
1107
1108 Ms. Rodgers asked if this was a by-right subdivision which Ms. Perry confirmed.
1109
1110 Ms. Hockenberry noted this was a piece of property that had been of concern for a
1111 long while. Reading from the Comprehensive Plan, on page 61, Future Land Use
1112 Change Number 6 in Figure 414, which is this property, is associated with a small
1113 area of land that lies directly across from City Hall/Cherry Hill complex on Park
1114 Avenue. In the 1997 Comp Plan it was designated as transitional on the future land
1115 use map, and yet the City would consider small scale retail uses appropriate for
1116 the location. For this reason the designation for the area has been modified to
1117 business.
1118
1119 Ms. Hockenberry said they keep hearing this is transitional and she realized on the
1120 land use map it's marked transitional. And on 414 it does say business and the
1121 change from transitional.
1122
1123 Ms. Perry said based on the review of the staff report, the Comprehensive Plan
1124 designated the area for mixed use and the zoning transitional. She didn't have a
1125 copy of the Comprehensive Plan with her.
1126
1127 Ms. Hockenberry said it was confusing that the land use map and it's right outside
1128 of official design area. On the official zoning map she thought it was marked
1129 Transitional 1 on there. There is a conflict between the land use map and the
1130 recommendations in the Comp Plan.
1131
1132 Ms. Perry said in terms of the subdivision though, provided that an application
1133 meets all the subdivision requirements it was pretty much an administrative act for
1134 approval. It comes down to do they meet the Code requirements for subdividing the
1135 area, because they're not talking about the use of a lot but really a
1136 reconfiguration of a land area.
1137
1138 Ms. Hockenberry added they were reconfiguring for residential.
1139
1140 Ms. Perry said the setback shown on the plat would be consistent with single family
1141 development.
1142
1143 Ms. Teates asked if there was a possibility it had been changed and did not make it
1144 on the map and if it could be checked on.
1145
1146 Ms. Perry said they could definitely check on it. Based on the research provided
1147 by staff, their finding was the area was designated as mixed use and she didn't
1148 have information that coordinated with what Ms. Hockenberry was referencing and she
1149 would have to double check on all of that.
1150
1151 Mr. Reid Dudley, with Runyon Dudley Associates, was the civil engineer for the
1152 project and was acting as the owners' agent. The application they had was for a
1153 subdivision, what he said was more of a boundary line adjustment. There are two
1154 lots, and they're reconfiguring the lot line between. Setbacks were shown as
1155 required by the Code and those used were for the setbacks of the zone that exists.

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1156 Mr. Dudley's understanding was this provided the most flexibility in the future for
1157 development but at this point in time the client had not asked to proceed with any
1158 final engineering drawings for any specific application.
1159
1160 The few administrative issues being worked out with engineering, one has to do with
1161 the City's new bench mark systems which would be tied into and could be done fairly
1162 quickly even though the system was not up yet. The other shows a request for some
1163 pavement widening shown on one sheet but not on all three sheets.
1164
1165 The Chair opened the item to the public. Hearing no response, the item was closed
1166 to the public.
1167
1168 Ms. Hockenberry asked if it was one property now or if it was two lots and they
1169 were reconfiguring the property lines. Ms. Perry said it was two lots oriented
1170 towards North Virginia and they would be oriented toward Park Avenue but the corner
1171 lot could be oriented either way.
1172
1173 Chair Lawrence noted normally this would be an administrative action but because of
1174 the Code it had to come to the Planning Commission. Mr. Meeks understood this was
1175 an administrative act but there was some question in his mind based on the Comp plan
1176 and based on what is on the map. He asked for clarification on when something
1177 becomes an administrative act.
1178
1179 Ms. Perry explained the Comprehensive Plan first and foremost is a guide. It is
1180 the City's vision. Zoning gives a landowner development rights. If the zoning is
1181 consistent with a use being proposed, they have the right to develop that.
1182 Comprehensive zone compliance is looked for in rezonings because they want the new
1183 zone to facilitate development that is consistent with the vision. In a
1184 subdivision, the use isn't at issue. It's whether or not the lot and the
1185 resubdivision of the land is meeting the requirements in the Code for being
1186 resubdivided.
1187
1188 Chair Lawrence asked about Ms. Hockenberry's inquiries as to the confusion about
1189 where this land falls and how the Comp plan ties into it. Ms. Perry said that was
1190 not her understanding of the read of the Comprehensive Plan. She didn't have it
1191 before her but Comprehensive Plan compliance is not one of the requirements for
1192 resubdividing land and it is possible they could implement elements of the
1193 Comprehensive Plan under the existing zone. So resubdividing the lots was not
1194 going to impact that. They didn't know what the use of the property was going to
1195 be.
1196
1197 Ms. Hockenberry said they did because they were talking primarily about 7 A and 8 A
1198 and that means residential. She remarked this was a small lot to begin with and
1199 even with that, if you go into the Code it would take a greater amount of square
1200 footage to put a commercial building on it because you need approximately 20,000
1201 square feet.
1202
1203 Ms. Perry noted for all other uses besides single family residential, there is a 40
1204 percent lot coverage limitation on a property zoned T 1. So limitations in
1205 development are reached in different ways. In single family or two family
1206 dwellings, it's predominantly through setback with a smaller limitation on lot
1207 coverage. All other uses like commercial uses that would be permitted under the T
1208 1 District, the largest limitation is the 40 percent lot coverage.
1209
1210 Ms. Hockenberry said she had been on the Open Space Committee also and she knew it

1211 was definitely looked at. There was also future possibility of consolidation with
1212 other older buildings down on Virginia Avenue.
1213 Ms. Hockenberry emphasized the Comp Plan had a vision and the City had been
1214 criticized in the past being without a vision. In the past all it's been used for
1215 was political campaign signs and beer trucks. Being so close to City Hall and to
1216 what is considered the hub of Falls Church, she hated to see it go residential.
1217 She submitted once it goes residential, it will never be gotten back.
1218
1219 If there was residential put there, the tree ordinance would require an enormous
1220 amount of restructuring or replacement of canopy cover that would be so extensive
1221 she didn't know how they could find a place in the whole City to put that many
1222 trees, which she saw as a future difficulty with developing these lots.
1223
1224 Chair Lawrence asked if Ms. Hockenberry needed more time to see how this was fit
1225 into the Comp Plan and the Zoning, which Ms. Hockenberry affirmed.
1226
1227 Ms. Rodgers said it had always been her understanding if you're asking to redraw
1228 the property line or you're dealing with a by-right subdivision, that it's an
1229 automatic approval. She noticed on the sample motions one of the options was to
1230 deny the application. She asked if it was denied, then what were the applicant's
1231 options.
1232
1233 Ms. Perry said the denial would require reasons and it would likely be given the
1234 subdivision regulations that the application was somehow deficient and the
1235 deficiencies could be fixed and the plan resubmitted. A reason would have to be
1236 along the line of a deficiency in the application where it's not meeting a Code
1237 requirement.
1238
1239 Mr. Meeks noted they were not being asked about the use but was uncomfortable, not
1240 with the use per se but literally it did not seem to him that this T 1 zone
1241 contemplated an entire residential two single family houses use. He thought it was
1242 a little bit unprecedented that you would take a pure T 1 which has been
1243 interpreted as a mixed use zone, and say it's going to be two single family houses.
1244 He thought the confusion was a reason for continuance and Ms. Hockenberry agreed
1245 with him.
1246
1247 Ms. Perry said if that was the decision, she would need specific guidance on what
1248 information the commissioners were requesting to consider the application on a
1249 different date.
1250
1251 Ms. Teates was curious that the lots were being reconfigured to be R 1 B because
1252 she thought the neighborhood was mostly R 1 As. She was surprised that T 1 was so
1253 open to interpretation. She thought the whole point was that transitional was to
1254 transition to commercial or mixed use. Transitional is all along the commercial
1255 corridors.
1256
1257 Ms. Perry said some of it does face residential neighborhoods. In the Transition
1258 Use District, T-1, principal uses permitted by right included one family dwellings
1259 as regulated in the R 1 B district; two family dwellings as regulated in R 1 B, and
1260 townhouses, and those are the residential uses permitted.
1261
1262 Ms. Teates mentioned it curious it didn't say R 1 A. She didn't feel there was any
1263 real legitimate reason to continue this unless there was an action made on the Comp
1264 Plan in the past and they were not aware of that, to change that from T 1 to
1265 business. She also was concerned because of the evening's earlier 1965 newly found

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1266 variance, and she didn't want to reconfigure the lots to make them open for
1267 residential and find out they acted on the Comp Plan and change it to business.
1268
1269 Ms. Teates also remarked they all knew what the use proposed was because it was on
1270 the signage currently on the lot. Ms. Rodgers said the information was on the web
1271 site also.
1272
1273 Ms. Perry said you can't deny the subdivision because of the Comprehensive Plan's
1274 vision. Ms. Teates main issue was that what Ms. Hockenberry read, the intent was
1275 to have that lot changed to business at some point. Ms. Hockenberry said it was on
1276 the chart and on the written part also.
1277
1278 Ms. Teates also remarked that that it was a recommendation and a lot of
1279 recommendations in the Comp Plan were followed through with. Ms. Rodgers replied
1280 that this wouldn't have been followed through because the owner of the lot would
1281 have objected to that change.
1282
1283 Ms. Perry didn't know the history of the lot but did know that the subdivision
1284 requirements, absent a few that had to be approved per the City engineer which was
1285 being recommended to be administratively approved by staff, were being met. The
1286 Comp Plan issues would be critical in looking at a rezoning or something of that
1287 nature, talking about specific uses. But there is no requirement for a use to be
1288 shown at the time of subdivision. The only reason setbacks are there was because
1289 the subdivision requirements require showing some setbacks and the only place where
1290 you have setbacks are with a single family development.
1291
1292 Ms. Teates appreciated what Ms. Perry was saying and that this was about the
1293 subdivision of lot and not the use. She just wondered what if a change had been
1294 made and no one remembered. Based on what the staff report said, she didn't think
1295 they had any clear reasons to deny or continue this. The only thing issue she had
1296 was the Comp Plan had suggested it be changed to business or recommended it.
1297
1298 Ms. Teates related the struggle for all of them from a planning perspective was
1299 this is the wrong lot to place residential. This is a better lot to be combined
1300 with the other two lots on Virginia at a future time to put in something more
1301 appropriate with the Plan for the City. It was very difficult to move forward with
1302 the Comp Plan and to continue to try to plan the future of the City and have things
1303 like this happen, lose control of land that really should be kept for another use.
1304
1305 Ms. Hockenberry added they were also creating two lots that were bare minimum of R
1306 1 B, 7500 square feet.
1307
1308 Chair Lawrence thought Ms. Teates' concerns would be a justified reason for a
1309 continuance. He understood there is a lot of emotion attached to the land but it
1310 seemed like a reasonable action.
1311
1312 Ms. Hockenberry called for clarification on that because it was in black and white
1313 and whether it was acted on. She remembered a lot of things being brought to them
1314 Council-wise and didn't remember that particular part but she thought this needed
1315 to be tracked down to see what happened with that recommendation.
1316
1317 Chair Lawrence noted Ms. Cotellessa would be at the September 21st meeting and Ms.
1318 Hockenberry expressed preference that the head of the Planning Department look into
1319 this.
1320

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1321 Mr. Dudley asked for clarification because there had been a lot of talk about
1322 zoning and residential. He said applicant was not rezoning and application shows
1323 only the T 1 Zone on the application. The configuration of the property was within
1324 those standards. There is a small piece of dedication that they were getting for
1325 the curb return on the intersection. He was not sure he understood the connect
1326 between the Comprehensive Plan which has to do with the zoning aspects of it and
1327 the subdivision aspect they were asking for today.
1328
1329 Ms. Teates explained her concern was when the Comprehensive Plan was written there
1330 was a recommendation that the zoning for the two lots combined be changed. They
1331 were concerned that that recommendation, if it was followed through, might not have
1332 been found when staff was researching those two lots because they may not have
1333 realized there was a recommendation in the Comp Plan.
1334
1335 Mr. Dudley said that still did not change the zoning. Ms. Teates said it would if
1336 the recommendation was followed through with, the zoning would have changed.
1337
1338 Mr. Dudley did not follow that connect but asked if there could be a motion
1339 conditioned upon the answer to that question so they didn't have to come back
1340 again.
1341
1342 Ms. Perry submitted it was the purview of the Planning Commission to do something
1343 like that. She also said if the subdivision was approved, the applicant had the
1344 right to develop the property under all applicable codes. Mr. Meeks asked if under
1345 approval anything else becomes staff administrative review.
1346
1347 Ms. Perry drew attention to Attachment 3, which were notes from the City engineer
1348 indicating there were a few administrative Code requirements. One has to do with
1349 relating the Deed North arrow to NGS, a Code requirement, and the second one was
1350 they needed to show a dedication of land sufficient to contain a sidewalk and
1351 utility strip, total distance of not less than 6 feet. That was followed up with
1352 this engineer in an e-mail on the reverse of that indicating 1 and 3 were the
1353 requirements but 2 and 4 were post-subdivision items that could be accomplished
1354 during construction or future development.
1355
1356 Ms. Hockenberry asked Mr. Dudley what would happen if it was found out zoning was
1357 changed and the matter was approved.
1358
1359 Mr. Dudley replied it wouldn't make any difference to the application. They would
1360 still want to see the configuration of the lot in its proposed condition and go
1361 through with the process. He couldn't imagine it wouldn't change a whole lot of
1362 the aspects of buying a piece of property and not knowing the zone.
1363
1364 Ms. Perry related the Zoning Administrator reviews the application to verify the
1365 information so it's not that attention hadn't been paid to the zoning.
1366
1367 Ms. Perry said if the zone was different, there would have to be changes made to
1368 the plats to note the new zoning district but the Business Districts are less
1369 restrictive in terms of lot coverage and minimum yard requirements.
1370
1371 Mr. Meeks thought it was unprecedented in his experience in the real estate
1372 business that an applicant was actually arguing that they didn't want the property
1373 upzoned.
1374
1375 Mr. Dudley said he was not hearing anything from the applicant or the application

1376 about the zoning at all.

1377
1378 **MOTION:** Mr. Meeks moved, and Ms. Rodgers seconded,
1379 that the Planning Commission give
1380 preliminary and final approval of
1381 Subdivision Application Number 20090474
1382 subject to staff administrative review and
1383 confirmation that all required items that
1384 have been attained and that such plat be
1385 brought to the Chair of the Planning
1386 Commission for signature; and the Zoning
1387 Administrator confirm the zoning and it is,
1388 in fact, T-1.
1389

1390 Ms. Teates noted while this doesn't happen very often, it happened earlier today.
1391 This is something backed up by an actual recommendation from the Planning
1392 Commission at the time when they put together the last Comp Plan that that zoning
1393 change be made. If the Zoning Administrator wasn't aware the recommendation was
1394 made, he may not have looked back that far or may not have specifically looked for
1395 something like this.
1396

1397 Ms. Teates asked Ms. Perry to convey to the Zoning Administrator that the reason
1398 they were asking this is that the language and the exhibit in the Comp Plan
1399 suggested that there was a recommendation that the zoning be changed and they
1400 wanted to make sure the recommendation was not followed through on.
1401

1402 Mr. Wodiska said everyone had covered the points he wanted to say. He thought from
1403 a Planning Commission standpoint the motion was a correct one and the way they
1404 needed to vote. If this land is used as residential, it would be a real shame. He
1405 didn't think it's consistent with what the vision of the City is in the Comp Plan,
1406 regardless of the actual legal text. Similar to the last vote taken, they need to
1407 follow the rules and what the zoning code says. For that reason he was going to
1408 support the motion but he thought it was a poor use of land in the City.
1409

1410 Ms. Hockenberry and Ms. Rodgers agreed with Mr. Wodiska's comments.
1411

1412 Mr. Meeks said he had been skeptical in talking about the Comp Plan. He thought
1413 this was not the highest and best use of the land. He thought they did a pretty
1414 good job the last time they did a Comp Plan, but probably a bad job with the
1415 execution and follow through. His sense was they were waiting for the zoning code
1416 rewrite and everyone wanted to get rid of T 1 and hopefully this was sort of the
1417 last bad experience they would have with this and he wished it was different.
1418

1419 Upon roll call vote the motion passed unanimously.
1420

1421 9. OTHER BUSINESS: None.
1422

1423 10. MINUTES FOR APPROVAL - AUGUST 3, 2009
1424

1425 Ms. Teates moved, and Ms. Hockenberry seconded, to approve the minutes as amended.
1426

1427 Upon voice vote, the motion passed unanimously.
1428

1429 11. ADJOURNMENT:
1430

1431 Ms. Teates made a motion, and Mr. Wodiska seconded, to adjourn at 10:31 p.m.
1432
1433 Respectfully Submitted, Noted and Approved:
1434
1435
1436 Ann Hieber Suzanne Cotellessa, AICP
1437 Recording Secretary Planning Director
1438
1439 The City of Falls Church is committed to the letter and to the spirit of the
1440 Americans with Disabilities Act. To request a reasonable accommodation for any
1441 type of disability, call 703.248.5040 (TTY 711).
1442
1443
1444